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Political Economy's Influence on ASEAN's Competition Law: A Study on Selected ASEAN Members

Pengaruh Ekonomi Politik terhadap Hukum Persaingan ASEAN: Studi pada Beberapa Anggota ASEAN Tertentu

Angayar Kanni Ramaiah[*1], Safinaz Mohd. Hussein[2], Ploykaew Porananond[3], Tran Viet Dung[4], Ningrum Natasya Sirait[5], Wan Liza Amin[6]
[1]*Faculty of Law, Universiti Teknologi MARA, Cawangan Pulau Pinang, 13500, Malaysia*
[2]*Faculty of Law, Universiti Kebangsaan Malaysia, Bangi, 43600, Selangor*
[3]*Faculty of Law, Chiang Mai University, Chiang Mai, 50200, Thailand*
[4]*International Law Faculty, Ho Chi Minh City University of Law, Vietnam*
[5]*Faculty of Law, Universitas Sumatera Utara, Medan, 20155, Indonesia*
[6]*Faculty of Law, Universiti Teknologi MARA, Shah Alam, 40450, Malaysia*
[*]Corresponding Author: akanniramaiah@gmail.com

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ABSTRACT

Competition law aims to promote fair market practices and prevent monopolistic behaviour, while political economy explores the relationship between economic systems and political institutions. Together, these disciplines shape the regulatory frameworks that oversee national markets and economic policies, encouraging competition and tackling issues such as inequality and market inefficiencies. In developing countries, the influence of political economy tends to be more significant than in developed nations, which usually benefit from more stable democratic institutions and stronger legal systems. Among ASEAN member states (AMS), there is notable variation in levels of economic development, policies, political structures, and legal frameworks. Consequently, each AMS's unique political and legal history has influenced its approach to economic management and competition law, leading to distinct priorities and concerns. These political economy factors similarly impact the process of regional competition law integration among ASEAN countries. This paper explores how political economy shaped the enactment and enforcement of competition law in selected AMS: Malaysia, Vietnam, Thailand, and Indonesia. It analyses the underlying reasons for their specific reservations, exemptions, and priorities within their competition law. Using qualitative legal research and comparative analysis, the study reviews relevant political economy structures, statutes, regulations, and policies in the chosen AMS to assess their significance and influence on competition law administration. The findings indicate that ASEAN's regional competition law alignment and integration must recognise each AMS's broader internal political economy, which is vital for developing competitive markets within ASEAN.
Keyword: Political Economy, Exemption, Integration, Competition Law

ABSTRAK

Hukum persaingan bertujuan untuk mendorong praktik pasar yang adil dan mencegah perilaku monopoli, sementara ekonomi politik mengeksplorasi hubungan antara sistem ekonomi dan lembaga politik. Bersama-sama, disiplin-disiplin ini membentuk kerangka peraturan yang mengawasi pasar nasional dan kebijakan ekonomi, mendorong persaingan dan mengatasi masalah seperti ketidaksetaraan dan inefisiensi pasar. Di negara berkembang, pengaruh ekonomi politik cenderung lebih signifikan dibandingkan di negara maju, yang biasanya diuntungkan oleh institusi demokrasi yang lebih stabil dan sistem hukum yang lebih kuat. Di antara negara-negara anggota ASEAN (AMS), terdapat variasi yang signifikan dalam tingkat pembangunan ekonomi, kebijakan, struktur politik, dan kerangka hukum.

Akibatnya, sejarah politik dan hukum unik masing-masing AMS telah memengaruhi pendekatan mereka terhadap manajemen ekonomi dan hukum persaingan, yang mengarah pada prioritas dan kekhawatiran yang berbeda. Faktor-faktor ekonomi politik ini juga berdampak pada proses integrasi hukum persaingan regional di antara negara-negara ASEAN. Makalah ini mengeksplorasi bagaimana ekonomi politik membentuk pengesahan dan penegakan hukum persaingan di negara-negara terpilih di Asia Tenggara: Malaysia, Vietnam, Thailand, dan Indonesia. Ini menganalisis alasan mendasar untuk keberatan, pengecualian, dan prioritas spesifik mereka dalam hukum persaingan mereka. Menggunakan penelitian hukum kualitatif dan analisis komparatif, penelitian ini meninjau struktur ekonomi politik, undang-undang, peraturan, dan kebijakan yang relevan di AMS terpilih untuk menilai signifikansi dan pengaruhnya terhadap administrasi hukum persaingan. Temuan ini menunjukkan bahwa penyelarasan dan integrasi hukum persaingan regional ASEAN harus mengakui ekonomi politik internal yang lebih luas dari masing-masing negara anggota ASEAN, yang sangat penting untuk mengembangkan pasar yang kompetitif di dalam ASEAN.
Keyword: Ekonomi Politik, Pengecualian, Integrasi, Hukum Persaingan

1. Introduction

The term "political economy," originating from the Greek words' "polis" (meaning "city" or "state") and "oikonomos" (one who manages a household or estate), refers to the relationships between individuals and society, as well as between markets and the state, using a diverse set of tools and methods primarily drawn from economics, political science, and sociology. Political economy addresses how a state should be governed, considering both political and economic factors (Veseth & Balaam, 2025). It developed as a distinct field of study in the mid-18th century, mainly in response to mercantilism. Scottish philosophers Adam Smith (1723–90) and David Hume (1711–76), along with French economist François Quesnay (1694–1774), further examined it systematically (Veseth & Balaam, 2025; Weinstein, n.d.). While economic policy determines the level of competition in the market, an industrialised economy requires the proper political economy framework to underpin policies that maintain an open market, which then encourages innovation and provides firms with the technological edge in the global economy to develop or adopt advanced technologies that enhance productivity and competitiveness (Andreoni & Chang, 2019; Juhász & Lane, 2024). In a competition law context, an "open market" refers to a market free from regulatory barriers, where prices are determined by supply and demand, thereby fostering competition that benefits consumers and promotes economic efficiency. However, as industrialised economies utilise open markets to foster innovation, developing nations face the challenge of ensuring that such openness leads to sustainable growth and poverty reduction within their countries.

Competition Law encompasses a set of regulations designed to promote fair competition and prevent monopolistic practices within markets. In the economic context, Competition Law encourages market competition, striving to enhance economic efficiency by restricting practices that could distort competition. It is based on the principle that such measures can improve consumer welfare by limiting anti-competitive practices (Ng, 2018). The implementation and enforcement of Competition Law are crucial requirements within the ASEAN Economic Community (AEC) roadmap, established on 31 December 2015, as part of the ASEAN economic integration plan. The ASEAN Regional Guidelines on Competition Policy 2010 and the ASEAN Regional Guidelines on Competition Policy and Law 2020 (hereafter called ASEAN's regional guidelines) were introduced to create a framework for ASEAN competition law policy. These regional guidelines outline the core principles of competition law, including prohibitions on restrictive agreements, market dominance, and abuse of a dominant position. The draft was largely inspired by established competition regimes, such as those of the European Union (EU) and the United States (US) antitrust laws. The "ASEAN way" of adopting competition law emphasises national-level implementation through a "soft law" approach involving guidelines and cooperation, rather than a single comprehensive regional law (ASEAN, 2010).

The purpose of this paper is to examine and highlight the significant influence of political economy factors on the scope and administration of competition law in the AMS, focusing on a selected group of AMSs, including Malaysia, Vietnam, Thailand, and Indonesia. Therefore, the main question of interest is to identify why certain reservations and priorities are applied to exempt or exclude specific activities or sectors from the coverage of competition law regulation.

2. Method

The research employed a qualitative approach, aimed at understanding human experiences and social phenomena through non-numerical data. The legal doctrine of qualitative research used in this study helps to understand the context, implications, and interpretations of competition law within AMS. This approach involved analysing how political economy-related factors influence competition in practice, with a focus on selected ASEAN member states, and aims to identify and understand the rationale behind reservations that exclude or exempt certain businesses or activities from their competition administration.

The research highlights the challenges of developing a competitive, integrated ASEAN economic landscape, emphasising how political economic factors such as history, culture, and institutions influence their competition law, since the findings show these elements significantly affect how competition law is enforced across member states. The paper examines the role of localised factors in both domestic and regional competition law environments, reflecting the diverse forces shaping law enforcement in the ASEAN region. For instance, the criteria for identifying agreements that breach competition law include banning only those with a substantial impact, as well as criminal sanctions for abuse of dominance in Indonesia, Thailand, and Vietnam. Other examples include the treatment of state-owned enterprises, merger control, and national champions, which vary across ASEAN countries, alongside shifting government roles that necessitate interventions against anti-competitive practices. It underlines the importance of political economy as a fundamental prerequisite for developing effective competition law and pro-competitive policies. As such, political economy remains a vital consideration in regional integration for fostering peaceful coexistence among authoritarian regimes.

3. Result and Discussion

3.1. Interface between the Market Economy Policies, Political Economy Dynamics and Competition Law: Underlying Concepts

3.1.1. Concept of Political Economy on Competition Law: Underlying Ideologies

A key intellectual inquiry into political economy has been ongoing from the 16th to the 18th century and has played a crucial role in how states regulate their economies. Its analysis of state and market relations has been used both practically and as a moral philosophy rooted in natural law (Veseth & Balaam, 2025). It illustrates how a nation's history, culture, politics, and customs influence its economic system. Political economy in competition law studies examines how economic theories and political factors influence the regulation of market competition. It seeks to understand the balance between promoting competition and addressing broader social and economic objectives, which often challenge traditional views on market dynamics and the role of the state (Lianos, 2024). The concept of political economy emphasises the influence of political, social, and power dynamics on the creation and enforcement of competition rules, viewing them as embedded elements of influence within a broader societal context rather than purely technical economic instruments. It examines how various stakeholders—such as governments, firms, and consumers—interact and exert power in shaping policies to balance public and private interests, drive innovation, and allocate resources, ultimately defining the effectiveness and fairness of competition law regimes both globally and domestically (Dowdle et al., 2013). In this context, political economy encompasses the study of how a nation's public finances are managed or governed, considering both political and economic factors (Veseth & Balaam, 2025). It examines how the development of law, business practices, customs, and the role of government uniquely influence a nation's economic growth, shaping patterns of production and trade. A study of political economy determines whether an established or projected system promotes or hinders its economic competitiveness within the jurisdiction. Political and economic factors are deeply intertwined, as exemplified by the fact that changes in government policy can directly impact economic growth. Conversely, economic pressures may influence political decisions and reforms (Feng, 1997).

Therefore, the concept of political economy within competition law shows how economic theories and political considerations interact to influence the development and enforcement of competition policies. It considers not only the economic impact of competition law but also the broader social, political, and institutional factors that shape legal frameworks. Several authoritative sources have previously discussed the link between political economy and competition law. Ioannis Lianos and D. Sokol, in their book, The Political Economy of Competition Law, offer a detailed analysis of how political and economic factors jointly influence competition policy (Lianós & Sokol, 2012). Another relevant work is Eleanor M. Fox and Mor Bakhoum's Making Markets Work for Africa: Markets, Development, and Competition Law in Sub-

Saharan Africa (Fox & Bakhoum, 2019), which examines the role of political economy in competition law frameworks, especially in developing contexts. Furthermore, in "Competition Policy and the Political Economy of Reform," William E. Kovacic explores how political and economic forces shape the implementation and reform of competition policies. He emphasises that competition policy is deeply connected with political considerations and the political economy of the markets it regulates, often facing significant obstacles from bureaucratic resistance and vested interests during reform efforts (Kovacic, 2007). These references reinforce the idea that political economy in competition law includes economic, social, political, and institutional aspects. Political economy views markets as socially embedded institutions whose rules reflect competing social and political interests rather than purely neutral economic mechanics. Therefore, the discussion raises important questions about which actors benefit from enforcement choices and how firms, regulators, and political actors influence outcomes. How do historical institutional arrangements and national values change the scope and enforcement of competition rules?

Generally, political economy tends to have less influence in stable democracies that uphold the rule of law. However, it significantly impacts developing nations (Daniels & Trebilcock, 2004), such as ASEAN, which feature diverse socio-economic and political systems. The integration of competition laws across ASEAN is heavily shaped by the political economies of its member countries. The differing economic structures, policy priorities, and governance approaches within ASEAN greatly influence how competition laws are formulated, interpreted, and enforced. Therefore, understanding competition law from a political economy perspective involves analysing the factors related to various interest groups, government bodies, and market participants that affect and are affected by the creation and enforcement of competition regulations. It recognises that competition law does not operate in a vacuum but is influenced by policy objectives, public interest, and the balance of power within society. Considering political economy offers a more comprehensive understanding of why competition law is formulated in certain ways and how its enforcement reflects broader societal values and priorities, beyond merely economic efficiency.

3.1.2. Underlying Market Economy Theory and Free Market System within the Competition Law

Adam Smith's theory emphasised that the role of political economy was far more significant than state intervention in the development of the nation's economic welfare. Smith's famous notion of the 'invisible hand" theory argues that government policies are often influenced by individuals' desire to improve their own welfare, which in turn also benefits society (Smith, 2022). This economic argument supported the analysis and implementation of policies centered on individuals, challenging the state-centered theories of mercantilists. Consequently, the term "political economy" became widely used to describe any government policy that has economic effects (Cropsey, 2021; Veseth & Balaam, 2025; Weinstein, n.d.). Hence, economics is a social science concerned with the production, distribution, and consumption of goods and services, examining how individuals, businesses, governments, and nations allocate resources (Cropsey, 2021; Hayes, 2025).

Economists view political and market processes as functioning within separate analytical realms. Therefore, economic theory concentrates on the conditions under which market competition achieves Pareto-efficient resource allocations. In political processes, economics asserts that the state has a role in addressing market failures to attain Pareto efficiency. Consequently, the theory of market competition was developed based on assumed conditions believed to align with Pareto-efficient outcomes, rather than deriving those conditions from a simpler, prior starting point (Wagner & Yazigi, 2012). Hence, it was formulated accordingly. It is important to recognise that, although the goal of harmonisation is broadly accepted, its practical realisation may face various challenges stemming from differing national interests and capacities. Variations in legislative maturity, enforcement capabilities, and political sentiment among AMS mean that progress towards a unified competition policy is inconsistent. Some AMS have well-resourced competition authorities, while others are still establishing the necessary institutional frameworks and expertise to enforce competition laws effectively. This disparity has generated inconsistencies in rule application and occasionally creates loopholes that weaken the goals of regional integration. Additionally, aligning competition laws must address local sensitivities and priorities, such as protecting emerging domestic industries, safeguarding national security, and pursuing socio-economic development objectives. These factors frequently require tailored exemptions or transitional arrangements, reflecting the complex balance between regional ambitions and domestic realities. Therefore, the path towards a fully harmonised competition law regime in ASEAN is expected to be gradual, demanding ongoing dialogue, capacity enhancement, and an adaptability to changing regional and global economic landscapes.

As such, market economy policies, political dynamics, and competition are interconnected within the broader concept of political economy. Establishing a new competition law regime has never been an easy task for developing nations like the AMS. The enactment of competition law in an emerging economy, described as 'giving a silk tie to a starving man,' reflects the futility of such laws in countries with more pressing issues (Godek, 1992; Porananond & Aung, 2019), such as poverty, unemployment, navigating global trade tensions, and protectionism, which affect exports and domestic demand. For example, the escalation of tariffs and trade restrictions, particularly from major economies such as the US, creates uncertainty and can disrupt the global supply chains on which many ASEAN economies rely. The individual-centered analysis and policies aimed at countering the state-centered theories of mercantilists, like Adam Smith's advocacy for the 'free market' economic system and open competition through regional policy, can pose a conundrum for the individual AMSs, as government policies and legal systems must reconsider the scope and mechanisms of interventions, linkages, and ownership (Smith, 2022).

AMS are predominantly developing and underdeveloped nations, with the exception of Singapore. The region features mixed market economies that blend private enterprise with varying degrees of state ownership and intervention, practising a mixed market economic system. This hybrid system represents a combination of free market and command economy principles, characterised by a mixture of private enterprises and government-directed or State-linked (and owned) corporatisation to complement a certain degree of planned economy. Economic systems range from free market to socialist and communist, influencing the degree of government involvement in resource allocation and distribution. Adam Smith's free market theory poses challenges for AMS governments, as their economies have long relied on significant government participation and control, raising questions about the extent of market freedom possible within Asia's unique legal and political context.

In conclusion, the regional integration of competition law in ASEAN requires a balancing act between national sovereignty and collective economic aims, which are influenced by political economic factors. While harmonisation is vital for establishing a seamless single market, member states are often cautious about ceding control over competition policy due to its effects on domestic industries and economic development strategies. This delicate balance has resulted in a cooperative rather than supranational approach, where dialogue and mutual recognition of national laws are prioritised over strict legal alignment. As a result, ASEAN's integration process is characterised by gradual progress, pragmatic adaptations, and ongoing negotiations to address the diverse interests and priorities of its members. Ultimately, the success of regional competition law integration will rely on sustained commitment to cooperation, capacity building, and the incremental alignment of regulatory frameworks across ASEAN.

3.2. ASEAN Regional Economic Policy and Implications for Competition Law Integration

3.2.1. ASEAN Regional Economic Policy: ASEAN Economic Community Objective and Structure

The Association of Southeast Asian Nations (ASEAN), founded in 1967, has actively promoted political, economic, and cultural integration within the region. The ASEAN Vision 2020, outlined in 1997 by the organisation's ten member countries—Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam—sets out the aim of creating a peaceful, economically integrated, and culturally united community.

The ASEAN Economic Community (AEC) was officially established on 31 December 2015, marking a significant milestone in ASEAN's economic integration agenda. Its creation followed the AEC Blueprint 2015, adopted in 2007, which outlined the master plan for forming the community. After establishing the AEC, a new AEC Blueprint 2025 was developed to guide the next phase of economic integration (ASEAN, 2015). The AEC represents the realisation of the ultimate goal of economic integration as outlined in Vision 2020, which is based on the convergence of interests among ASEAN Member Countries to deepen and expand economic integration through existing and new initiatives with clear timelines. This initiative was designed to facilitate the free movement of goods, services, investment, skilled labour, and capital within the region, thereby strengthening regional integration and positioning ASEAN as a competitive entity in the global economy (ASEAN, 2015).

The AEC was established to transform ASEAN into a single market and production base, creating a stable, prosperous, and highly competitive economic region characterized by equitable development and full integration into the global economy by 2025. Competition policy is one of the three core elements for

establishing a competitive region. In the declaration on the AEC Blueprint 2008, ASEAN leaders committed to implementing Competition Law in all AMS by 2015 to ensure a level playing field and to foster a culture of fair business competition, thereby improving regional economic performance (ASEAN, 2008). The introduction of competition law was intended to establish a set of "rules of the game" for the consumer market, protecting the competition process itself rather than individual competitors (ASEAN, 2010). Over time, ASEAN has made notable progress towards these goals, especially in the area of competition law, as the AMS have begun enacting and enforcing laws to promote fair market practices and prevent monopolistic behaviour. However, achieving the AEC vision also depends on the regional integration of competition law. Harmonising competition regulations across member states is seen as essential to ensure fair and consistent practices within the single market. Effective integration of competition law will help prevent anti-competitive behaviour, support the growth of regional production networks, and boost ASEAN's overall competitiveness on the global stage.

3.2.2. ASEAN Regional Competition Law Policy, Objective and Structure

Although AMS are obliged to adopt the Competition Law enactment as part of their commitments, according to the 'ASEAN Way' policy they have chosen not to establish a supranational competition regulator to oversee and enforce regional competition laws and policies. The ASEAN Way for adopting competition law involves fostering cooperation and a shared commitment to national-based competition laws within the ASEAN Economic Community (AEC), rather than enforcing a single, harmonised regional law. As a result, ASEAN has established ten separate competition regulators, each implementing its own distinct competition laws and policies (ASEAN, 2020), with various, diverse, and unique regulatory features. Although the AEC 2015 was ASEAN's pragmatic approach to economic integration, it shows from the outset that ASEAN agreed to adopt an 'open regionalism' strategy. However, member states avoided forming a customs union, a precursor to the European Union. However, they agreed to evolve, primarily due to differences in economic and political systems, as well as varying levels of economic development. Therefore, regional economic integration is not part of its growth plans. It adopted the 'rising tide' stance, emphasising a 'prosper thy neighbour' attitude, as it addressed developmental gaps among member states.

The ASEAN Regional Guidelines on Competition Policy 2010 identify three areas of anti-competitive conduct (ASEAN, 2010). Firstly, unless exempted, there is a prohibition on anti-competitive (horizontal and vertical) agreements between undertakings that prevent, distort, or restrict competition within the AMSs' territory. Secondly, abuse of dominant position, either individually or collectively with other undertakings, refers to a situation where a party can unilaterally influence the competition parameters in the relevant market for goods or services (market power), exploiting its dominant position or excluding competitors to harm the competition process (abusive behaviour). Thirdly, anti-competitive mergers and other restrictive trade practices that lead to a substantial lessening of competition, or which would significantly impede effective competition in the relevant market or a considerable part of it (regarding production, supply, distribution, storage, acquisition, or control of goods or provision of services) are considered problematic (ASEAN, 2010). Competition Law (CL) views certain horizontal agreements, such as price fixing, bid rigging, and market allocation, as inherently anti-competitive under the effect test.

Meanwhile, certain other vertical restraints, such as mergers and alleged abuse of dominance, have been examined under the balancing test of the rule of reason to determine whether they cause a significant adverse effect on competition. The implementation process allows AMSs to pursue other legitimate policies that may require derogations from competition law principles, such as exemptions or exclusions for specific industries or activities. However, RCGP (2010) stated that the main rationale for granting exemptions or exclusions must be based on the pursuit of strategic and national interests, as well as security and public, economic, and social considerations (ASEAN, 2010).

3.2.3. Political Economy's Influence on ASEAN Competition Law: History, Culture, and Institutions

The potential for ASEAN regional economic integration is viewed with mixed opinions, as ASEAN is a regional cooperation comprising developing countries with significant economic disparities and considerable political, social, and cultural diversity, making integration a challenging endeavour. Although in the years following the AEC's formation, ASEAN made progress in its integration agenda, with member states advancing in enacting competition laws, harmonising competition law frameworks, and enhancing economic cooperation. Nonetheless, the harmonisation of competition law at the regional level within ASEAN is

heavily influenced by the distinct political economy of each member state. The regional harmonisation of competition law within ASEAN is mainly shaped by the unique political economies of its member states.

Historical arguments and narratives based on precedents dominate major economic policy debates. Analysing history requires considering institutions, contexts, and politics to validate hypotheses within the analytical framework. This contributes to a more accurate understanding of situations and enhances robustness, both crucial for designing effective economic policies. Economic history shows us the importance of combining historical methods with economic theory. It illustrates why some models or solutions cannot be universally applied and highlights the need to consider their unique social and historical contexts (Antipa & Bignon, 2019). Therefore, history forms the foundation upon which economic policies are built, often influencing the pace and nature of integration efforts. Cultural differences shape attitudes towards competition, regulation, and compliance. Meanwhile, the distinct institutional structures in each country affect the overall effectiveness and consistency of regulatory enforcement, leading to varying practices across the region. Collectively, these factors create a diverse environment where the application of competition law varies, reflecting each country's unique characteristics within the ASEAN region.

These various political economic factors create significant challenges for achieving regional harmonisation. While ASEAN is dedicated to integrating competition law to establish a unified market, the process is inherently shaped by the specific characteristics and priorities of each member state. As a result, the adoption and enforcement of competition law across the region reflect not only shared goals but also the unique historical, cultural, and institutional backgrounds of each country. In the following discussion, the study investigates the political-economic dynamics related to ASEAN's organisational structure, sanctions, and overall effectiveness of competition law integration based on the selected AMS.

3.3. Political Economy Influence on the Selected ASEAN Members' Competition Law Framework

Levels of privatisation, democracy, the political ideology of the government, legal origin, and types of capitalism explain the existence of a variety of competitions. Therefore, common functional pressures for adopting and expanding formal competition laws are largely influenced by domestic-institutional and political factors (Wassum, 2023). The following paragraphs discuss how the political economy influences the application of competition law in Malaysia, Vietnam, Thailand, and Indonesia. Their political frameworks, legal system and objectives, transparency, independence, and restrictions on competition law are used to identify the optimal combined effect between national and regional development goals.

3.3.1. The Political Economy Factors in the Malaysian Competition Law

The Malaysian Competition Act 2010 came into effect on 1 January 2012, exemplifying Malaysia's commitment to agreements such as the AEC, ASEAN Free Trade Area (AFTA), and the World Trade Organisation (WTO), of which Malaysia is a member (Len, 2006). The Competition Commission Act 2010 authorised the Malaysian Competition Commission (MyCC) to oversee, advise authorities on competition matters, and promote public awareness of Competition law. The Competition Act 2010 (CA 2010) in Malaysia primarily aims to foster fair competition, protect consumer interests, and encourage efficiency and innovation in the market by banning certain agreements and practices that could harm competition. Section 4 of the CA 2010 forbids anti-competitive agreements between enterprises that substantially prevent, restrict, or distort competition in any market for goods or services. These anti-competitive agreements include both horizontal agreements among competitors and vertical agreements between different levels of the supply chain. Section 10 of the CA 2010 prohibits a dominant enterprise from engaging, whether independently or collectively, in any conduct that constitutes an abuse of a dominant position in any market for goods or services in Malaysia.

Nevertheless, even if there is a potential infringement, an agreement that is prohibited under section 4(1) may be exempt from liability if the parties involved can demonstrate that there are pro-competitive benefits resulting from the agreement that outweigh the disadvantages. When a dominant company is involved, it can still justify its actions with reasonable commercial reasons or responses as a defence, as outlined in CA 2010 or based on other policy reasons rooted in their political economic backgrounds. That includes, among others, their history of the Malaysian political economy, which is closely tied to certain features in the Malaysian Federal Constitution, particularly Article 153, that allocates special privileges permitting federal law to grant or licence the operation of specific trades or businesses in such a manner, or give such general directions to any authority charged under that law with the granting of such permits or licences, as may be

required to ensure the preservation of a proportion of such permits or licences for Malays and natives of any of the States of Sabah and Sarawak as deemed reasonable. The Federal Constitution lacks clear provisions that require the removal of internal barriers to trade and business, nor has any obligation been imposed by the Constitution on the government to ensure non-discrimination, particularly in the economy and in the removal of internal trade barriers (Ahamat & Rahman, 2017).

Secondly, to promote economic growth and diversify the industrial structure, the government implemented an import substitution industrialisation policy in 1969. It intervened in the market by providing essential infrastructure, tariff protection, and other incentives to encourage foreign investors' participation in the national economy. This effort was followed by export-oriented industrialisation (EOI), with economic policies favouring large producers with substantial capital investments (Sundarman, 2004). Foreign direct investment (FDI) has played a crucial role in the growth and structural transformation of the Malayan—and later Malaysian—economy (Allen & Donnithorne, 2013). This approach involved EOI, with policies supporting large producers that had made significant capital investments. Malaysia's focus on FDI stemmed from a dilemma faced by the Malay-dominated government, which relied on Chinese-dominated domestic private capital as the main driver of industrialisation. Therefore, the government's preferred strategy was to engage foreign investors—mainly multinational enterprises (MNEs)—in joint ventures within pioneer industries, aiming to expand Malay ownership with the goal of fostering a Malay middle class (Jesudason, 1989; Wheelwright, 1965). This path has been pursued through EOI, with policies favouring large producers with significant capital investments.

Thirdly, the Malaysian New Economic Policy (NEP), as a response to the aftermath of ethnic tensions, became a forefront in national development policy after the May 1969 racial riots. The NEP is a sweeping affirmative action programme announced in 1970. It is one of the most influential economic policies introduced by the government in the post-independence era, aimed at eradicating poverty and addressing the economic imbalance between significant races in the country. Its goal is to maintain national unity through two objectives: eradicating poverty via employment creation, and restructuring Malaysian society to eliminate the association of race with economic function and geographical location (Faaland et al., 1990). To achieve the first objective, the development strategy was reformulated with a focus on export-oriented industrialisation. The Free Trade Zone (FTZ) Act was enacted in 1971 to attract export-oriented FDI. Under the Act, Malaysian states were allowed to establish FTZs outside the main customs area, where fully export-oriented firms could operate with up to 100 per cent foreign ownership and benefit from a range of incentives and exemptions from import duties. For the second objective, long-term targets were set for Bumiputra (ethnic Malay) ownership of share capital in limited liability companies, and for the proportion of Bumiputra employed in manufacturing and managerial roles. However, these restrictions did not apply to FTZ enterprises, creating a dualistic ownership structure (Athukorala, 2011).

Fourthly, it is also important to note that the NEP functioned as 'economic regulation' to restrict and control certain activities, such as private firms' decisions on pricing, quantity, entry and exit decisions, mergers, acquisitions, specific trade, and industrial policies—especially in cases where their market power was inevitable (similar to a natural monopoly due to scale economies). This was achieved by introducing a licensing system and requiring prior approval from the Minister of Finance and Bank Negara to prevent developments that might lead to market monopoly or concentration. The Price Control and Anti-Profiteering Act 2018 makes profiteering an offence. Profiteering is defined as making unreasonably high profits, as measured by a mechanism prescribed in the Price Control and Anti-Profiteering Regulations (PCAPR, 2018), which came into force on 6 June 2018 and applies to all goods and services sold in Malaysia. Consequently, economic regulation gained increased importance and took precedence over other government policies in Malaysia, even before the CA 2010.

Finally, although market liberalisation in Malaysia has been achieved through privatisation, deregulation, and the opening of state monopolies to increased competition, there remains a significant presence of various sector-specific legislation. These laws are exempt from the application of CA 2010. Specifically, the CA 2010 does not regulate (i.e., excludes) anti-competitive mergers and acquisitions in Malaysia, nor does it cover all activities and conduct listed in the Second Schedule and First Schedule of the CA 2010. This includes competition matters related to the Aviation Commission Act 2015. The Communications and Multimedia Commission enforces regulations in the communications and multimedia industries (Communications and Multimedia Act 1998), while the Energy Commission is responsible for enforcing

regulations in the energy sector (Energy Commission Act 2001). Commercial activities regulated under the Petroleum Development Act 1974 and the Petroleum Regulations 1974—particularly those involved in upstream operations such as exploring, exploiting, winning, and obtaining petroleum, whether onshore or offshore—are also excluded from the scope of the CA 2010. Moreover, the CA 2010 explicitly excludes agreements or conduct that comply with any legislative requirement, collective bargaining for employment and services of general economic interest, or conduct that has the character of a revenue-producing monopoly (Ramaiah, 2015). The Act has specifically excluded this sector-specific legislation, along with related sectors and their activities, due to their importance in generating national revenue.

Additionally, these sectors are also generally comprised of state-owned enterprises (SOEs) or involve essential services, which the government safeguards to ensure an uninterrupted supply. Malaysia's economy comprises a mixture of private enterprises and SOEs. These SOEs largely support the government's strategy of adopting a degree of planned economy as part of its efforts to industrialise the country, and they have played a significant role in driving the Malaysian economy to its current level. The importance of SOES is also grounded in their political, economic, and social rationales. Politically, SOEs are viewed as the most suitable entities to operate in strategic sectors. Economically, they serve as key vehicles for national champions. Socially, SOEs are associated with maintaining social cohesion, reflecting developments in Malaysia's political economy despite the various criticisms directed at GLCs and the government's backing of them (Ahamat & Rahman, 2017).

3.3.2. The Political Economy Factors in Thailand's Competition Law

Thailand was among the first countries in ASEAN to introduce a competition law. The Trade Competition Act B.E. 2542 was enacted in 1999 and addresses anti-competitive practices such as agreements, abuse of dominant position, and mergers, as well as restrictive or unfair trade practices. Furthermore, its general application does not distinguish between corporations and individuals. The legal basis of competition law in Thailand originated with the Trade Competition Act B.E. 2542 (1999), which was later amended by the Thailand Trade Competition Act, 2017 (TTCA). The Office of Trade Competition Commission (OTCC) was established in 2019 under the Ministry of Commerce, and it oversees all business operations.

The Trade Competition Act 2017 is the third edition of Thailand's competition legislation, enacted by General Prayut Chan-o-cha, the leader of the 2014 coup d'état. This government has prioritised fighting corruption, particularly in politics. To achieve this, the National Reform Council was established to create a more peaceful and orderly Thailand through various reforms, including an updated competition law aimed at addressing monopolies and encouraging fair competition. The Council concluded that effective regulation of competition would promote free and fair markets, which would, in turn, help eliminate corruption. As a result, the new competition law was adopted as part of this anti-corruption framework.

Thailand's economy, though liberalised, has always been influenced by the military government, which has steered the country towards a more protectionist regime. Thailand's economy relies on agricultural, industrial, and commercial sectors. A business oligarchy is clearly evident, as most enterprises are controlled by conglomerates with strong ties to politicians (McEwin & Thanitcul, 2013). The oligarchic structure, in which political leaders serve the interests of their financial supporters, is maintained by imperfect regulations and enforcement (Porananond & Aung, 2019). It is therefore inevitable that the government will intervene in the market economy. Consequently, against this political economy backdrop, it is doubtful whether the new competition law can effectively achieve its aim.

The objectives of Thailand's competition law have traditionally been noted at the end of the bill as a 'nota bene'. However, they are absent in the Trade Competition Act 2017, leaving the law without an explicitly stated objective. The competition law reform addressed issues such as the previous competition authority's lack of autonomy and independence, as well as its inefficiency in promoting free and fair competition in Thailand. Consequently, it has metaphorically created a gap, casting doubt on whether this note bears any legal authority. Nonetheless, it is reasonable to infer from this end-of-bill note that the aim of the new Act is "the protection of free and fair competition." Here, the principle of fairness is recognised as being equal in importance to free competition. However, if one believes that the note at the conclusion of the Act does not constitute part of the law, then the current Thai competition law indeed lacks an explicit objective.

Although it is ultimately difficult to ascertain whether external factors influenced Thailand's objectives in

its competition law, primarily because several drafters of the 1999 Trade Competition Act (the second iteration of Thailand's competition law) insisted on its independence from foreign influence, others argued that it was modelled after the South Korean Monopoly Regulation and Fair Trade Act and the Taiwan Fair Trade Law. This was likely due to similarities in economic structures between these countries, characterised by a few dominant firms and many small and medium enterprises, as noted by Thanitcul (Professors from Faculty of Law Chulalongkorn, 2019). In reality, the adoption of Thailand's competition law was not entirely free from external influences. However, it was connected to Thailand's state of "economic and financial distress" (Sivalingam, 2006) following the Asian Financial Crisis, which compelled the country to seek international aid. Similar to Indonesia, Thailand obtained a financial loan from the International Monetary Fund (IMF), with the IMF's conditionalities aimed at restructuring the country's financial and industrial sectors, leading to the initial enactment of the national competition law (Thailand, 14 August 1997; 25 November 1997) (Rennie, 2009), culminating in the Trade Competition Act of 1999. It is rumoured that the United States supported the enactment of this Act to serve its own interests. The lack of concrete evidence suggests that Thailand adopted its national competition law as part of its financial reforms following the crisis, independently of international intervention (Nikomborirak, 2006). Consequently, there was no internal or economic reason for the CLP prior to the AEC.

3.3.3. The Political Economy Factors in the Indonesian Competition Law

The economic crisis in 1998, which impacted Asia, led Indonesia to sign an agreement with the IMF on 15 January 1998 for US$43 billion in aid. This support was contingent on Indonesia implementing economic reforms, similar to those imposed on Thailand, including amendments to specific economic laws. These included the Intellectual Property Rights Law, Corporate Law, Bankruptcy Law, and notably the Business Competition Law, which was established between 1999 and 2000 as a consequence of IMF assistance. Indonesia's Competition Law was enacted under Law No. 5 of 1999, with the aim of fostering fair competition and preventing monopolistic practices. The law was enforced by the Indonesian Competition Commission (KPPU), which was authorised to investigate and penalise anti-competitive conduct (KPPU, 2019).

Factually, the proposal to introduce the Competition Law in Indonesia was initiated much earlier in 1989 and was extensively discussed as part of their economic reform, primarily to address the need to regulate conglomerate power, ensure market fairness, and adapt to the evolving digital economy. However, the draft laws were initially rejected in 1995 (Kwik et al., 1999). Conglomeration and economic oligarchy largely controlled the Indonesian economy through certain families and parties. They dominated their market economy by downplaying fair business competition and undermining the interests of SME entrepreneurs. Statutory regulations protected the conglomerate businesses by granting special privileges that provided access to markets for various essential commodities, such as cement, glass, wood, sugar, rice, motor vehicles, cloves, and wheat flour, as well as through taxes, customs, and credit (Damanik et al., 2025). The ruling government protected such business practices in the interest of certain parties. The adoption of competition law was condemned as a foreign "transplanted" law from other countries' legal systems, supported by the IMF, and perceived as inconsistent with the Indonesian legal system. To stabilise the economic situation, the government attempted to establish a legal framework to support reform. The MPR Decree No. XVI / MPR / 1998 concerning political economy in the context of Indonesian democracy, in response to competition, was stated in Article 3: "In the implementation of Economic Democracy, it is permissible and must be eliminated the accumulation of assets and concentration of economic power in a group of people or companies that are not by the principles of justice and equity."

Finally, during the plenary session of the House of Representatives or DPR on 18 February 1999, the competition law was approved as Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition. This law is also the outcome of the MPR-RI (Indonesian People's Assembly) Decree No. X/MPR/1998 concerning the Principles of Development Reform in the Framework of Saving and Normalising National Life (Alam & Tejomurti, 2022). Article 3 of Law No. 5 of 1999 emphasises that business actors in Indonesia must conduct their activities based on the principles of 'economic democracy', with due regard for the balance between the interests of business actors and the public interest. The preamble of Law No. 5 of 1999 promotes fair business competition, emphasising economic development that involves all members of society for the benefit of society, aimed at achieving the people's welfare based on Pancasila and the 1945 Constitution (Para (a), Law No. 5, 1999). The principle expects the state to take all necessary measures to ensure the objectives of economic democracy through a

system of "free fight liberalism" and statism, aiming to eradicate monopolistic power and practices from Indonesia's economic development. The provisions of Law Number 5 of 1999 seek to protect business competition for its own sake, as stated in Paragraph (b) of Law No. 5 of 1999: "democracy in the economic field requires equal opportunity for every citizen to participate in the process of production and distribution of goods and/or services, in a healthy, effective and efficient business climate so as to promote economic growth and the operation of a fair market economy." Article 3 of Law No. 5 of 1999 outlines four primary purposes for enacting the competition law: a. safeguarding the public interest and enhancing the efficiency of the national economy, as part of efforts to improve the people's welfare; b. creating a conducive business climate by regulating fair business competition to ensure certainty in equal opportunities for large-, middle- and small-scale business actors; c. preventing monopolistic practices and/or unfair business competition caused by business actors; and d. creating effectiveness and efficiency in business activities.

The fourth amendment to the 1945 Constitution of the Republic of Indonesia, adopted on 10 August 2002, added two new paragraphs, including paragraph (4). The Indonesian economy shall be organised based on economic democracy, guided by the principles of togetherness, efficiency with justice, sustainability, environmental insight, independence, and a balance between progress and national economic unity. (5) Further provisions regarding the implementation of this article are regulated in law.

Article 33 of the Constitution of the Republic of Indonesia 1945 states that: "the basis of economic democracy, production is carried out by all, for all under the leadership or ownership of members of the community. The prosperity of the community is prioritised, not the prosperity of an individual." Furthermore, it is said that "The earth and water and natural resources contained in the earth are the principles of the people's prosperity. Therefore, they must be controlled by the state and used for the greatest prosperity of the people." The importance of efficiency considerations in competition policy is underscored by the fact that inefficient resource use results in high prices, low output, a lack of innovation, and waste. The principle of "Efficiency" is also incorporated in Article 33, paragraph 5 of the 1945 Constitution of the Republic of Indonesia, which states the principle of "Just Efficiency". Every business actor aims to deliver the greatest prosperity to consumers by providing efficient goods and services (Alam & Tejomurti, 2022).

Therefore, Indonesian Law Number 5 of 1999 does not govern consumers' rights to seek justice or compensation for violations of antitrust laws. The pursuit of consumer justice is often seen as a goal rather than a right that must be protected when business competition is infringed upon. Consumers cannot act as parties entitled to direct compensation in cases of breaches of antimonopoly regulations. This situation indicates that the aims of the Business Competition Law are, in principle, aligned with the objectives of the 1945 Constitution. However, the aims and regulations of the Competition Law need to be balanced, and the political choice of business competition law must be made to achieve harmony with the principles of unity, fairness, efficiency, sustainability, environmental awareness, and independence, while also maintaining a balance between progress and national economic cohesion.

3.3.4. The Political Economy Factors in the Vietnam Competition Law

The Vietnam Competition Authority is an organisation established under the Ministry of Industry and Trade, tasked with overseeing fair competition, protecting consumers, and implementing measures to defend Vietnam's interests in imports.

In the mid-1980s, Vietnam launched a comprehensive market-oriented economic reform under the "Doi Moi" (Renovation) policy, leading to notable social, economic, political, and cultural progress. The "Doi Moi" policy was officially adopted by the VI National Congress of the Communist Party of Vietnam (Party Congress) in 1986. This reform policy resulted in the promulgation of a new Constitution in 1992, which recognised "a multi-component commodity economy functioning under market mechanisms" as the foundation of the country's economic system. Prior to the reform, Vietnam followed a Soviet-inspired centrally planned economy characterised by heavy state intervention in market activities. In this system, markets remained underdeveloped, and the idea of "competition" was not formally accepted. Vietnam's socialist economy effectively suppressed the basis for competition and merger regulation. The system not only fostered intense hostility towards market competition as an idea but also, by oppressing non-socialist sectors and centralising economic decision-making within the party-state, obscured the practical need for competition. In the formal economy, economic agents were seen as parts of a single national production unit, following directives from one source. The priority shifted from competitive efforts to fulfilling state plans.

Firstly, under the Doi Moi Policy, the government recognised the private sector and opened the door to foreign investment. These policies enabled many domestic and private enterprises to flourish. In line with these liberalisation measures, the government also gradually reduced the role of the state in the economy by equitizing SOEs, adding them to the growing number of private businesses. 'Equitisation' is a Vietnamese English term that denotes the process of converting a Vietnamese state-owned enterprise into a public (joint stock) company or corporation by dividing its ownership into shares. The term 'equitizing SOEs' officially describes the process in which the party-state sells all or part of its shares in an SOE to non-state actors. Equitisation was regarded as a vital part of the SOE reforms in Vietnam because it aimed to integrate the Vietnamese economy into the global market and attract foreign capital. Consequently, the equitisation process often coincided with partial privatisation, with the state retaining the majority or controlling stakes in the equitized firms. These newly formed enterprises contributed to the non-state economic sectors, significantly transforming the country's economic structure. The liberalisation policies turned Vietnam into a multi-sector economy, fostering market competition and establishing the foundations for regulation. Mergers began reallocating resources between different enterprises and sectors, resulting in changes in ownership and competitive advantages. These conditions made it necessary to include mergers within competition regulation as well. However, the state sector still enjoys significant advantages and preferences over the private sector. During the first two decades of implementing Doi Moi reforms, the legal framework regarding competition was very limited, and regulatory institutions were almost absent (The World Bank, 2006).

Secondly, accession to various international economic arrangements, especially to the WTO, has significantly contributed to developing the competition legal framework in Vietnam. The WTO accession negotiations introduced greater external pressure on the Vietnamese government to deepen economic and legal reforms. WTO members closely monitor Vietnam's performance of its commitments toward improving the legal framework for a competitive environment. One of the main reasons for enacting the Competition Law in 2004 was to affirm Vietnam's commitment to a market-based economic system and its deepening integration into the world economy (Law on Competition No. 23/2018/QH14, 2018).

Vietnam was among the first ASEAN countries to implement a comprehensive competition law. This legislation bans five types of anti-competitive practices, including (i) agreements that significantly restrict competition (Article 8); (ii) abuse of dominant or monopolistic positions (Articles 13 & 14); (iii) 'concentrations of economic power' that substantially hinder competition (Article 18); (iv) acts of unfair competition (Article 39); and (v) anti-competitive behaviour or decisions by officials or State administrative agencies exploiting their authority (Article 120). The Competition Law regulates most anti-competitive agreements, such as price fixing, market sharing, output restriction, hindrance of investment or technological development, coercive contractual terms, entry barriers, exclusion or foreclosure of non-members, and bid rigging. Under this law, competition enforcement agencies established the Competition Administration Department (with investigative powers), the Ministry of Trade of Vietnam, and the Competition Council (with adjudicative powers). These authorities can grant exemptions if they determine that the harm caused by an anti-competitive agreement to the economy and the competitive process is outweighed by its potential benefits, such as corporate restructuring, technological advancement, support for small and medium-sized enterprises (SMEs), and improved international market presence of Vietnamese firms (Article 10). Exemptions are granted only upon application and proof of qualification. The adoption of the Competition Law in 2004, alongside related regulations, demonstrates the government's commitment to fostering a fair and competitive economic environment. The deficiencies of the Competition Law 2004 under the new conditions

After more than a decade of enforcement, the Competition Law has established itself as a key legal framework, creating and maintaining a level playing field for businesses, supporting the country's economic growth, and aiding the fair distribution of social resources. However, Vietnam's socio-economic landscape has undergone significant changes in recent years, particularly as the country becomes more deeply and widely integrated with the global economy. These recent developments have made large parts of the Competition Law 2004 either outdated or ineffective. Recognising the difficulties in enforcing the competition regime, the Vietnamese government enacted a new competition law in 2018. The Competition Law 2018 came into force on 1 July 2019, replacing the previous Competition Law 2004. The new legislation has introduced forward-looking reforms compared to its predecessor. One of the most notable changes is the shift from a broad, form-based approach to an effect-based regulatory framework (Law on Competition No. 23/2018/QH14, 2018).

The key issue is no longer whether a particular conduct falls within a statutorily defined list of prohibited actions. Instead, the question is whether it has or could have a competition-restraining impact on the market, potentially removing, reducing, distorting, or otherwise hindering market competition. The effect-based approach requires the competition authority to consider multiple factors beyond those specified in the Competition Law 2004, including the combined market share of relevant parties, when evaluating whether anti-competitive conduct or an M&A transaction should be banned. Legally, the assessment must consider (i) the market share ratio of enterprises involved in the agreement, (ii) barriers to market entry or expansion, (iii) restrictions on research, development, and technological innovation; (iv) limitations on access to or ownership of essential infrastructure; (v) increased costs and delays for consumers purchasing goods or services from the involved enterprises or switching to other relevant goods or services; and (vi) efforts to hinder competition by controlling unique industry factors. Previously, the law prohibited economic concentration transactions—such as mergers, consolidations, or buy-outs—only if the combined market share exceeded 50% of the relevant market. Under the new regulations, this threshold has been replaced by consideration of whether an economic concentration has or may have a significant competition-restraining impact. The effect-based approach aims to promote a fairer competition environment and enforce stricter regulations. The Competition Law 2018 has also expanded its scope to include activities by Vietnamese or foreign entities or individuals that have or may have a "competition restraining impact" on the Vietnamese market. The law now grants Vietnamese competition authorities the power to regulate offshore activities and transactions affecting the Vietnamese market. Additionally, the new legislation also applies to non-enterprise entities, including public service providers such as hospitals and schools.

The Competition Law 2018 also introduced substantial institutional reforms by establishing a new government body, the National Competition Commission ("NCC"). The NCC functions under the Ministry of Industry and Trade; it replaces the dual agency system set up by the Law on Competition 2004 and is empowered to investigate and resolve cases involving restraints on competition and unfair trading practices. However, it is debatable whether the NCC, as a part of the MOIT, can genuinely remain independent and impartial when handling the practices of SOEs. Significantly, the Competition Law 2018 has further increased transparency in competition enforcement. As a result, the NCC must upload all decisions to its official website within 90 days of issue and publish an annual public report on its activities. This broader scope of governance enables the NCC to strengthen international cooperation with other countries' competition agencies through consultation and information exchange, particularly concerning cross-border infringements. These measures should bolster the NCC's capacity and operational efficiency.

Furthermore, the Competition Law 2018 has strengthened regulations against abuse of dominance by replacing the "substantially restrain competition" test with the "significant market power" test to assess an enterprise's market position. The criteria for evaluating abuse of dominance include (i) market share in the relevant market; (ii) barriers to entry or expansion for other enterprises; (iii) financial strength and size of the enterprise; (iv) ability to control, access, and influence the market for distribution, sale, or supply of goods and services; (v) technological advantages and infrastructure; (vi) ownership and rights to access infrastructure; (vii) ownership and suitability of intellectual property rights; (viii) capacity to switch to alternative sources of supply and demand; and (ix) industry-specific factors. Regarding group dominance, the new law states that five enterprises with a combined market share of 85% or more are considered a group with a dominant market position. However, an enterprise with less than 10% market share is not included in this group. Lastly, the new Competition Law 2018 introduces a leniency policy. Specifically, enterprises that agree to restrain competition may have penalties reduced or waived if they voluntarily report their violation to the competition authority before an investigation decision is made. This leniency policy does not apply to enterprises that coerce or organise others to join the agreement. The policy covers the first three successful applicants, with the first applicant receiving up to 100% exemption from penalties, and the second and third applicants receiving 60% and 40% reductions, respectively.

3.5. Findings and recommendations

ASEAN member countries represent a diverse economic landscape, including developed, developing, and underdeveloped nations with various political systems. Political stability is a crucial issue in developing countries, unlike in developed nations, which have more established democratic institutions and the rule of law. Consequently, adopting a Western-oriented approach to competition in a market-driven economy forces these countries to transition from a four-decade period of state control to Adam Smith's free-market economy. This transition requires their governments to reassess or adjust their levels of intervention, the

mechanisms for such interventions, and the measures and protections against anti-competitive practices (Maria et al., 2017). Therefore, creating an appropriate legal framework to justify the differences in political economies—between state intervention and ASEAN's proposed RGCP 2010 (ASEAN, 2010), which aims to find harmony and justify the variations across competition law regimes—remains a persistent challenge in the region's trade relations and international commitments.

Nevertheless, general similarities at the macro level should be considered in light of potential differences at the micro level. Essential regulatory approach concerning such as 'per se', 'object' and 'effect', whether laws will apply to 'concerted practices', variations in merger notification thresholds like a mix of mandatory and voluntary, pre- and post-merger requirements, sanctions, leniency regimes, and investigation powers that influence the Competition laws' administration due to their political economy background could be addressed to some extent through soft law, cooperation, and coordination between the AMS competition regulators (ASEAN, 2020). A failure to ensure consistency in the interpretation and application of laws in these areas could pose a risk to ASEAN regional economic convergence.

A broader law and political economy approach would help public authorities better understand power relations within or outside a specific business ecosystem. It also promotes innovative thinking about solutions to ecosystem challenges related to competition law that create social value and could benefit all stakeholders, including the wider public interest. Political economy views competition law not just as an economic tool for market efficiency, but as a set of legal and institutional choices influenced by power, history, public values, and distributional outcomes. The perspective of efficient institutions suggests that differences in institutions arise from each country's unique features, making them more suitable for particular economic contexts. For example, while protecting small industries is a constitutional right in Indonesia, it might not be practical in Singapore. Variations in institutions may not be the primary factor driving economic performance, as societies tend to adopt the most appropriate institutions for their specific circumstances. Institutions are usually not collectively chosen by society, but rather by groups controlling political power, often due to conflicts with other groups seeking more rights.

The application of the National Competition Law must navigate the interface between competition policy and other national government economic policies. Although competition encourages firms to become efficient and offer a broader range of products and services at lower prices, the case study shows that these are not the only reasons why AMS governments introduce competition legislation. The competition laws in Malaysia, Thailand, Vietnam, and Singapore reveal multiple sets of variable values, each with different levels of importance that are neither easily quantifiable nor reducible to a single economic goal. Such values indirectly reflect society's wishes and the inherent political economy factors, such as culture, history, institutions, and other elements that cannot be ignored or should not necessarily be overlooked. A comparative analysis of the influence of political economy factors, such as historical background, foundation, and objectives, on the adoption and development of the CLP in Malaysia, Indonesia, Thailand, and Vietnam shows that they have significantly shaped the scope of CL implementation and its role in forming economic strategy. However, not all agreements affecting the relevant market should be deemed a breach of competition law. Instead, only those with a 'substantial', 'significant', or 'appreciable' effect on competition should be prohibited. As stated in the Regional Guidelines, "AMSs may decide that an agreement infringes the law only if it has as its object or effect the appreciable prevention, distortion or restriction of competition," in Paragraph 3.2.3.2.2. Currently, in the AMS, a divided approach is visible, with Malaysia and Vietnam applying 'significant', which includes an 'appreciable' effect threshold in their legislation. Conversely, Indonesia and Thailand do not specify any threshold at all (ASEAN, 2020). The sanctions for abuse of dominance align with those for anti-competitive horizontal (non-cartel) agreements. However, in Indonesia (Article 48 of Indonesian law), Thailand (Section 72 of Thai law), and Vietnam (Article 217 of the Criminal Code), there is also potential for criminal sanctions for abuse of dominance.

The regional guidelines exemptions apply where the Government activities are connected with the exercise of sovereign power (see paragraph 3.5.4). Especially in the context of SOEs, the government might operate in commercial markets. The application of AMS laws to SOEs remains unclear. Laws in Malaysia and Vietnam appear to be designed to include SOEs. Section 3(4) of Malaysian law applies the law to any commercial activity but excludes 'any activity directly or indirectly in exercising government authority'. This does not seem to exclude SOEs. In Vietnam, the 'applicable entities' listed in Article 2 seem to encompass SOEs. In Indonesia, an exemption may apply to creating designated monopolies for specific

SOEs and non-SOEs, as permitted by law—see Article 51, Indonesian Law. All AMS laws, except Malaysia, currently maintain a merger control regime. Consequently, the government's roles under the new economic system have shifted towards reconsidering the scope of intervention, mechanisms for such interventions, and remedies and defences regarding anti-competitive prohibitions.

The findings reveal the link between competition policies and other national economic strategies in ASEAN countries, emphasising the importance of considering factors beyond economic efficiency when formulating competition laws. The text highlights how political economy factors, such as historical background, culture, constitutional policies, economic sectors, and institutions, influence the implementation and enforcement of competition laws in Malaysia, Indonesia, Thailand, and Vietnam. It also discusses the criteria for determining when agreements breach competition law, noting that only those significantly impacting competition should be prohibited. Additionally, the passage mentions sanctions for abuse of dominance, including the possibility of criminal penalties in Indonesia, Thailand, and Vietnam. The findings suggest that the application of competition laws to SOEs varies across the AMS, reflecting differences in political and economic contexts. Furthermore, the merger control regimes in the AMS and the powers of competition agencies or commissions are inconsistent; some only require pre-merger notification without post-merger review, while others lack enforcement altogether.

Overall, the evolving role of governments in the new economic system needs to be reconsidered regarding their scope of intervention, mechanisms, remedies, and defence mechanisms against anti-competitive practices, particularly those involving SOEs and government organisations. Activities should reflect greater transparency from the government to encourage accountability, economic development based on economic principles, and innovation to meet global standards while balancing the importance of political economy in both ASEAN integration and regionalisation efforts. This approach suggests peaceful coexistence among authoritarian regimes in the region.

4. Conclusion

The political economy factor has shaped the structure of AMS competition law adoption, its scope of application, and the enforcement framework of competition law regimes across countries. The research aimed to reconcile the ongoing development of a competitive and integrated economic landscape within the ASEAN region and its progress in this area, closely linking it to the complex interplay of political-economic factors, including historical legacies, cultural norms, and institutional frameworks. Although there are basic regulations, a general convergence policy is emerging towards an economically founded assessment of anti-competitive practices. A political economy perspective redefines competition law as a governance tool that balances efficiency, fairness, resilience, and democracy, with domestic political and institutional factors playing a significant role in shaping its scope and strictness at the national level. In the ASEAN region, protectionism and government-linked monopolies and monopsonies pose substantial challenges to fostering effective competitive markets. The prevailing political-economic agenda heavily influences the enforcement of competition law. To address these issues and move towards a more integrated ASEAN competition regime that is both regionally and nationally effective, it is crucial for ASEAN and AMS to consider several key points: first, identifying the typical standards of anti-competitive practices that need to be tackled, such as abuse of dominance by incumbents, price collusion, and cartels, particularly in sectors like meat, rice, food, and beverages; and second, establishing a shared understanding of competitive markets and offences under competition law that benefit both market players and consumers. Lastly, ASEAN must develop harmonised remedies and enforcement mechanisms that can be effectively implemented across the region in pursuit of these objectives. Moving towards a more integrated and effective competition law regime will enhance ASEAN's regional economic efficiency and consumer welfare.

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6. Conflict of Interest

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